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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,013	10/28/2003	James P. Gardner JR.	00163.1306USC4	7056
23552	7590	06/22/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	
DATE MAILED: 06/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/696,013

**Applicant(s)**

GARDNER, JAMES P.

**Examiner**

Khoi H. Tran

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-37 is/are pending in the application.
- 4a) Of the above claim(s) 7,9,16,17,22,28 and 30-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,10-13,15,18-21,23-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

KHOI H. TRAN  
PRIMARY EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The previous Office Action filed on 06/02/2005 is hereby vacated in view of this instant Final Office Action. The statutory period for responding to this Action has been restarted.

### ***Election/Restrictions***

1. Applicant's election without traverse of Species III, Subspecies III, claims 1-6, 11-3, 15, 18-21, 24-27 and 29 in the reply filed on 04/01/2005 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3 and 4 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regards to claim 3, the original disclosure, with respect to the elected invention, does not provide details to support the "energy" monitor module comprising a detecting device integrated with a chemical dispenser.

In regards to claim 4, the original disclosure, with respect to the elected invention, does not provide details to support the "energy" monitor module comprising a detecting device located at a location remotely from the first location.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The "energy" monitoring module comprises a detecting device integrated with a chemical dispenser must be shown or the feature canceled from claim 3.

The detecting device located remotely from the first location for "energy" consumption detection must be shown or the feature canceled from claim 4.

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6, 8, 10-13, 15, 18-21, 23-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins et al. 6,553,418.

Collins '418 discloses a system for remotely monitoring power consumption of plurality of locations. Each location is associated with a specific customer account. Each account is obviously distinguished by an account identifier. The system comprises a monitor module 18 for detecting power consumption at the first location. If the first location happens to be a cleaning facility, it is obvious that the power consumption of the first location relates to power usage by the cleaning system therein for performing cleaning processes. The system comprises a remote database communicatively networked to the monitor module and stores the account identifier in association with the power information (Figure 1). The database stores corporate data (utility cost) in association with the power usage information and the account identifier. The system comprises an analysis application remotely located from the first location for analyzing the power usage information in relation with the corporate data to characterize operations associated with cleaning system. The remote analysis application issues an alarm and a command to the first location upon detection of the desired data characteristic not being met. It is obvious that such alarm could be issued

to the first location. Collins '418 system comprises real time data and historical data for generating reports.

In regards to claims 8, and 21 Collins '418 system analyzes the power usage information and the corporate data against a target parameter specifying a desired data characteristic associated with power consumption by the first location. The analysis application identifies a situation wherein the desired data characteristic is not met.

In regards to claims 6, 11-13, 24-26 Collins '418 system comprises remote client computers 56. It is obvious that the remote analysis application could be installed on any type of computer remotely located from the first location, including the client computers 56, for analyzing the stored data within the database. Installing analysis application(s) onto remote computer(s) for analyzing collected data is commonly well known in the art. Since the operations of the first location is remotely monitored and controlled, it is obvious that any remote computer, including the client computers 56, could be configured to monitor and control the operations of the first location.

In regards to claim 29, it is obvious that if the first location were a cleaning facility, warewashing machines would be presented.

7. Claims 1-6, 11-3, 15, 18-21, 24-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda et al. 5,777,895 in view of Collins et al. 6,553,418.

Kuroda '895 discloses a system for remotely monitor and control plurality of warewashing facilities. Each warewashing machine and facility is associated with an identifier for unique tracking thereof. However, Kuroda is silent as to the specifics of the remote monitoring and controlling of power consumption for the facilities.

Collins '418, along with paragraph 6 above, teaches that remote monitoring, analyzing, and controlling of power consumption provide cost-effective means to operate a business.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Kuroda '895 with the additional system for monitoring, analyzing, and controlling of power consumption, per Collins '418, because it facilitates a cost-effective way to operate a business.

### ***Conclusion***

8. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

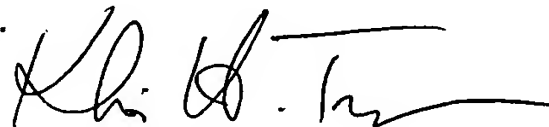
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran  
Primary Examiner  
Art Unit 3651

KHT  
05/18/2005